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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ANDREW ARRAND,

Plaintiff,

CASE No. 2:16-cv-01293-RFB-VCF

-vs.-

COMMISSIONER OF SOCIAL SECURITY

Defendant.

**STIPULATION AND ORDER EXTENDING TIME TO OBJECT TO THE REPORT
AND RECOMMENDATIONS FILED ON OCTOBER 23, 2018**
(First Request)

The Court filed a Report and Recommendation on October 23, 2018. Objections, if any, are due on November 6, 2018. Based on the stipulation hereinbelow, Plaintiff requests an additional (1) week to file his objection.

FRCP 6(b) states:

(b) Extending Time:

(1) In General.

When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) With or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or

(B) On motion made after the time has expired if the party failed to act because of excusable neglect.

Local Rule 6-1 states:

- 1 (a) Every motion requesting a continuance, extension of time, or order shortening time shall
2 be “Filed” by the Clerk and processed as an expedited matter. Ex parte motions and
3 stipulations shall be governed by LR 6-2.
4 (b) Every motion or stipulation to extend time shall inform the Court of any previous
5 extensions granted and state the reasons for the extension requested. A request made after
6 the expiration of the specified period shall not be granted unless the moving party,
7 attorney, or other person demonstrates that the failure to act was the result of excusable
8 neglect. Immediately below the title of such motion or stipulation there shall also be
9 included a statement indicating whether it is the first, second, third, etc., requested
10 extension, i.e.:

11
12 STIPULATION FOR EXTENSION OF TIME TO FILE MOTIONS
13 (First Request)

- 14 (c) The Court may set aside any extension obtained in contravention of this Rule.
15 (d) A stipulation or motion seeking to extend the time to file an opposition or final reply to a
16 motion, or to extend the time fixed for hearing a motion, must state in its opening
17 paragraph the filing date of the motion.

18 Local Rule 6-2 states:

- 19 (a) Any stipulations, ex parte or unopposed motions requesting a continuance, extension of
20 time, or order shortening time, and any other stipulation requiring an order shall not
21 initially be “Filed” by the Clerk, but shall be marked “Received.” Every such stipulation
22 20 | Page or ex parte or unopposed motion shall include an “Order” in the form of a
23 signature block on which the Court or Clerk can endorse approval of the relief sought.
24 This signature block shall not be on a separate page, but shall appear approximately one
25 inch (1”) below the last typewritten matter on the right-hand side of the last page of the
26 stipulation or ex parte or unopposed motion, and shall read as follows:

27 “IT IS SO ORDERED:
28 [UNITED STATES DISTRICT JUDGE,
UNITED STATES MAGISTRATE JUDGE,
UNITED STATES DISTRICT COURT CLERK]
(whichever is appropriate)

DATED: _____”

- (b) Upon approval, amendment or denial, the stipulation or ex parte or unopposed motion shall be filed and processed by the Clerk in such manner as may be necessary.

The Ninth Circuit has held in Ahanchian v. Xenon Pictures, Inc., 624 F.3d 1253, 1258-59 (9th Cir. 2010) that Fed. R. Civ. P. 6(b)(1) “ ‘[is] to be liberally construed to effectuate the general

1 purpose of seeing that cases are tried on the merits.’ *Rodgers v. Watt*, 722 F.2d 456, 459 (9th
2 Cir.1983) (quoting *Staren v. American Nat’l Bank & Trust Co. of Chicago*, 529 F.2d 1257, 1263
3 (7th Cir.1976)); *see also* Fed.R.Civ.P. 1 (“[The Federal Rules] should be construed and
4 administered to secure the just, speedy, and inexpensive determination of every action and
5 proceeding.”). Consequently, requests for extensions of time made before the applicable deadline
6 has passed should “normally ... be granted in the absence of bad faith on the part of the party
7 seeking relief or prejudice to the adverse party.” 4B Charles Alan Wright & Arthur R.
8 Miller, *Federal Practice and Procedure* § 1165 (3d ed. 2004).” *Id.*
9

10 In this case as shown in the declaration immediately below, Plaintiff’s counsel did not
11 receive notice of the Report and Recommendation that was filed on October 23, 2018 until
12 November 2, 2018. Apparently, the ECF notice went to Plaintiff’s attorney’s spam folder.
13 Therefore, Plaintiff is requesting additional time to prepare an objection to the Report and
14 Recommendation filed.
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16 **DECLARATION OF COUNSEL**

- 17 1. Plaintiff’s counsel did not receive notice of the Report and Recommendation filed on
18 October 23, 2018 until November 2, 2018.
- 19 2. Apparently, the Report and Recommendation was sent to the Plaintiff’s counsel’s spam
20 folder by mistake.
- 21 3. Plaintiff’s counsel routinely gets notification from federal bankruptcy court of various
22 filings and routinely received filings in this case via ECF without having any of the
23 filings directed to the spam folder.
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4. However, during this case, Plaintiff's counsel has periodically been denied access to the pacer case file of this matter for some unknown reason and then Plaintiff's counsel will regain access for some unknown reason.

5. Based on the lack of notice, Plaintiff's counsel believes that good cause exists to allow an extension of time to file an objection to the Report and Recommendations.

Dated this 6th day of November, 2018.

/s/ Randal R. Leonard, Esq.

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Attorney for Plaintiff

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1 **THE PARTIES THEREFORE STIPULATE AND AGREE AS FOLLOWS:**

- 2 1. That Plaintiff will have until November 13, 2018 to file an objection to the Report and
3 Recommendations filed by this Court on October 23, 2018.
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5 Dated: November 6, 2018

Dated: November 6, 2018

6
7 /s/ Randal R. Leonard, Esq.

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12 Attorney for Plaintiff

/s/ Sharon Lahey, Esq.

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Attorney for Defendant

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15 IT IS SO ORDERED:

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17 RICHARD F. BOULWARE, II
18 UNITED STATES DISTRICT JUDGE

19 DATED this 8th day of November, 2018.
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